

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Nos.	CUID Nos.
)	EB-02-TC-049	NY0874 (Orchard Park)
Adelphia Cable Communications)	EB-02-TC-050	NY1225 (Elma)
)		
Petition for Reconsideration)		

ORDER ON RECONSIDERATION

Adopted: July 16, 2002

Released: July 17, 2002

By the Chief, Enforcement Bureau:¹

1. In this Order we consider a petition for reconsideration ("Petition") of Order, DA 97-244 ("Prior Order"),² filed with the Federal Communications Commission ("Commission") by the above-referenced operator ("Operator").³ The Prior Order resolved a complaint against Operator's August 1, 1996 cable programming services tier ("CPST") rate increase. In this Order, we grant Operator's Petition in part, modify the Prior Order and dismiss Operator's refund plan as moot.

2. Under the provisions of the Communications Act⁴ that were in effect at the time the complaint was filed, the Commission is authorized to review the CPST rates of cable systems not subject to effective competition to ensure that rates charged are not unreasonable. The Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act")⁵ and the Commission's rules required the Commission to review CPST rates upon the filing of a valid complaint by a local franchising authority ("LFA"). The Telecommunications Act of 1996 ("1996 Act"),⁶ and the Commission's rules implementing the legislation ("Interim Rules"),⁷ required that a complaint against the CPST rate be filed with the Commission by an LFA that has received more than one subscriber complaint. The filing of a valid

¹ Effective March 25, 2002, the Commission transferred responsibility for resolving cable programming services tier rate complaints from the former Cable Services Bureau to the Enforcement Bureau. *See Establishment of the Media Bureau, the Wireline Competition Bureau and the Consumer and Governmental Affairs Bureau, Reorganization of the International Bureau and Other Organizational Changes*, FCC 02-10, 17 FCC Rcd 4672 (2002).

² *In the Matter of Global Acquisition Partners, Ltd. d/b/a/ Adelphia Cable Communications*, DA 97-244, 12 FCC Rcd 1503 (CSB 1997).

³ The term "Operator" includes Operator's predecessors and successors in interest.

⁴ 47 U.S.C. §543(c) (1996).

⁵ Pub. L. No. 102-385, 106 Stat. 1460 (1992).

⁶ Pub. L. No. 104-104, 110 Stat. 56 (1996).

⁷ *See Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 5937 (1996).

complaint triggers an obligation upon the cable operator to file a justification of its CPST rates.⁸ If the Commission finds the rate to be unreasonable, it shall determine the correct rate and any refund liability.⁹

3. Operators must use the FCC Form 1200 series to justify rates for the period beginning May 15, 1994.¹⁰ Cable operators may justify rate increases on a quarterly basis using FCC Form 1210, based on the addition and deletion of channels, changes in certain external costs and inflation.¹¹ Operators may justify their rates on an annual basis using FCC Form 1240 to reflect reasonably certain and quantifiable changes in external costs, inflation, and the number of regulated channels that are projected for the twelve months following the rate change.¹² Any incurred cost that is not projected may be accrued with interest and added to rates at a later time.¹³

4. In response to the complaint filed against its August 1, 1996 CPST rate increase, Operator filed an FCC Form 1240 ("1996 1240"). In the Prior Order, the Cable Services Bureau made adjustments to Operator's 1996 1240 to conform the entries to Operator's previously filed FCC Form 1220 and FCC Form 1210. Operator argues that the Cable Services Bureau should have adjusted Operator's Line H14 (Amount of True-Up Claimed for this Projected Period) and Line I8 (True-Up Segment for Projected Period) of Operator's 1996 1240 when the Cable Services Bureau made adjustments that reduced Operator's calculated maximum permitted rate ("MPR"). We agree. Operator is entitled to its full MPR for the period under review. Upon review of Operator's 1996 1240, amended to allow Operator to claim its full true-up segment, we find Operator's actual CPST rate of \$19.56, effective August 1, 1996, to be reasonable. Because our resolution of this issue disposes of Operator's refund liability, we need not address any other issue raised by Operator in its Petition. We modify the Prior Order to exclude any refund liability and dismiss Operator's refund plan as moot.

5. Accordingly, IT IS ORDERED, pursuant to Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, that Operator's Petition for Reconsideration IS GRANTED IN PART TO THE EXTENT INDICATED HEREIN.

6. IT IS FURTHER ORDERED, pursuant to Sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111 and 0.311, that In the Matter Global Acquisition Partners, Ltd. d/b/a/ Adelphia Cable Communications, DA 97-244, 12 FCC Rcd 1503 (CSB 1997) IS MODIFIED TO THE EXTENT INDICATED HEREIN.

⁸ See Section 76.956 of the Commission's rules, 47 C.F.R. § 76.956.

⁹ See Section 76.957 of the Commission's rules, 47 C.F.R. § 76.957.

¹⁰ See Section 76.922 of the Commission's rules, 47 C.F.R. § 76.922.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

7. IT IS FURTHER ORDERED, pursuant to Sections 0.111, 0.311 and 76.962 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311 and 76.962, that Operator's refund plan is DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau